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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,569	08/25/2000	ANDERS HJELHOLT PEDERSEN	02-107600US	5794

30560 7590 08/27/2002

MAXYGEN, INC.
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EXAMINER

SEHARASEYON, JEGATHEESAN

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 08/27/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/648,569

Applicant(s)

PEDERSEN ET AL.

Examiner

Jegatheesan Seharaseyon

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 73-115 is/are pending in the application.
- 4a) Of the above claim(s) 96-110 and 112-115 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 73-95 and 111 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Ex parte Quayle*.

Art Unit: 1647

DETAILED ACTION

1. This office action is in response to the preliminary amendment and response to restriction filed on 6/17/02 in paper number 6. Applicants have cancelled claims 1-72 and have added new claims 73-115. Applicants elect claims 73-95 drawn to Group I (polypeptides of the initial restriction). In addition, claim 111 drawn to Group III (composition containing the polypeptide) will be rejoined with Group I. The Applicants' traversal regarding the various primer sequences are moot because the Office will withdraw the election requirement of SEQ ID NOs: 1-38 because they include the SEQ ID NOs of the primers.

However, the Office will restrict between the multiple sequence substitutions described in the human interferon β variants. **This will not be considered as species election because of the unduly burdensome search required for the multiple sequence substitutions present in the claims.** The searches for each of the sequences are not coextensive and would be a burden on the Office to search all of the groups. Therefore, the restriction requirement is deemed proper and made FINAL. For the purpose of examination the Office will search the substitution Q49N+ Q51T indicated by the Applicant. In addition, substitution Q49N+ Q51S indicated in claim 73(a) will also be searched.

2. The drawings have been approved by the draftsman.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

4. This application is in condition for allowance except for the following formal matters:

Applicant needs to cancel unelected inventions to put this case in condition for allowance. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

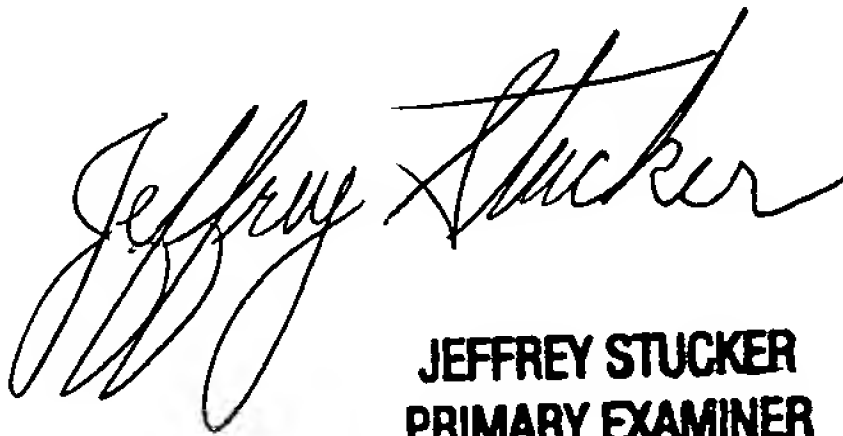
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jegatheesan Seharaseyon whose telephone number is 703-305-1112. The examiner can normally be reached on M-F: 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 703-308-4623. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0294 for regular communications and 703-308-4227 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

August 26, 2002


JEFFREY STUCKER
PRIMARY EXAMINER